

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**GEORGIA DID NOT COMPLY  
WITH FEDERAL WAIVER AND  
STATE REQUIREMENTS AT ALL 20  
ADULT DAY HEALTH CARE  
FACILITIES REVIEWED**

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**March 2023**  
**A-04-22-00134**

# ***Office of Inspector General***

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## Report in Brief

Date: March 2023

Report No. A-04-22-00134



### Why OIG Did This Audit

The Georgia Home and Community-Based Services Waiver program (the program) funds home and community-based services for people 65 and older and individuals with disabilities under 65 who are eligible for medical assistance and require the level of care provided in a nursing home but choose to live in the community. Georgia operates the program under a Federal waiver to its Medicaid State plan. The program funds adult day health care services for Medicaid beneficiaries who reside at home and attend adult day health care facilities (facilities). We have conducted various health and safety reviews nationwide and wanted to determine whether vulnerable adults participating in this program were at risk.

The objective of this review was to determine whether Georgia complied with Federal waiver and State requirements in overseeing facilities that serve vulnerable adults who receive services through the program.

### How OIG Did This Audit

Of the 102 facilities providing program services (providers) in Georgia as of December 31, 2021, we selected 20 for review based on their geographic location and number of participants. We conducted unannounced site visits from July 11 through 15, 2022.

## Georgia Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Health Care Facilities Reviewed

### What OIG Found

Georgia did not fully comply with Federal waiver and State requirements in overseeing providers that serve vulnerable adults receiving adult day health care services through the program. Of the 20 providers that we reviewed, 19 did not comply with 1 or more health and safety requirements, and 18 did not comply with 1 or more administrative requirements. We found 312 instances of provider noncompliance, including 126 instances of noncompliance with health and safety requirements. The remaining 186 instances related to administrative requirements, some of which could significantly affect health and safety.

Georgia did not fully comply with Federal waiver and State requirements because its inspections of facilities were insufficient to ensure a continuously safe and nonhazardous environment.

### What OIG Recommends and Georgia Comments

We recommend that Georgia ensure that providers correct the 312 instances of provider noncompliance identified in this report; improve its oversight and monitoring of providers; and work with providers to improve their facilities, staffing, and training.

In written comments on our draft report, Georgia concurred with our first recommendation and said that it would investigate the 20 providers reviewed and determine what enforcement actions are required. Georgia partially concurred with our second and third recommendations. For those recommendations, Georgia said that CMS approved modifications to training requirements and onboarding processes during the COVID-19 public health emergency and that it will continue to monitor providers in compliance with regulatory oversight requirements. In addition, Georgia said that it would perform desk audits and unannounced site visits, identify findings, and take actions to remediate the findings and ensure compliance.

We acknowledge that CMS modified some regulatory oversight requirements due to the COVID-19 public health emergency. However, those modifications did not change the Federal regulations and State requirements applicable to our findings. Therefore, after review and consideration of Georgia's comments, our findings remain unchanged.

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## **INTRODUCTION**

### **WHY WE DID THIS REVIEW**

The Office of Inspector General (OIG) has conducted health and safety reviews of adult day care and foster care homes and regulated childcare facilities. (Appendix B lists related OIG reports.) Those reviews identified multiple health and safety issues that put children and vulnerable adults at risk. We wanted to determine whether vulnerable adults participating in Georgia's Home and Community-Based (HCB) waiver program (the program) were at risk.

### **OBJECTIVE**

Our objective was to determine whether the Georgia Department of Community Health (State agency) complied with Federal waiver and State requirements in overseeing adult day health care (ADHC) facilities that serve vulnerable adults who receive services through the program.

### **BACKGROUND**

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program. In Georgia, the State agency administers its Medicaid program in accordance with a CMS-approved State plan. The State plan establishes which services the Medicaid program will cover.

Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a State may offer HCB services to a State-specified target group of Medicaid beneficiaries who need a level of institutional care that is provided under the Medicaid State plan.

Before the enactment of section 1915(c), the Medicaid program provided limited coverage for long-term services and support in noninstitutional settings but offered full or partial coverage of institutional care. Section 1915(c) was enacted to enable States to address the needs of individuals who would otherwise receive costly institutional care by furnishing cost-effective services that allow them to remain in their households and communities.

Federal regulations for section 1915(c) waivers require States to provide assurances that they will implement safeguards, including adequate standards for provider participation, to protect the health and welfare of individuals served under the waiver and to assure financial accountability for funds expended for those services (42 CFR § 441.302).

As part of the waiver, the State agency must also provide assurances that State requirements are met for services or for individuals furnishing services that are provided under the waiver (42 CFR § 441.302(a)(2)).

## **Georgia Home and Community-Based Services Waiver Program**

The State agency administers and operates the program under a 1915(c) waiver to its Medicaid State plan. The program funds HCB services for people 65 and older and individuals with disabilities under 65 who are eligible for medical assistance and require the level of care provided in a nursing home but choose to live in the community.

## **Georgia Adult Day Health Care Services**

In Georgia, ADHC services are less than 24 hours per day and include basic social, rehabilitative, health, and personal care services needed to sustain essential activities of daily living and to restore or maintain optimal capacity for self-care.<sup>1</sup> ADHC services are provided at a licensed facility.<sup>2</sup> These services are designed to prevent institutionalization of aged or disabled individuals by offering effective individualized services that ensure the health, safety, and welfare of participants so they may remain in their own home and community.

The State agency must ensure the health and welfare of vulnerable adults through licensing standards in State statutes and regulations and the requirements in its application for waiver services.<sup>3</sup> ADHC facilities (facilities) providing program services (providers) must meet the health care needs of program participants and maintain compliance with State requirements, and the State agency must comply with Federal waiver and State requirements for overseeing and monitoring the health and welfare of program participants.<sup>4</sup>

## **HOW WE CONDUCTED THIS REVIEW**

Of the 102 providers in Georgia as of December 31, 2021, we selected 20 for review. We selected these providers based on their geographic location and number of participants. To evaluate the State agency's oversight of facilities, we conducted unannounced site visits at the 20 selected facilities from July 11 through 15, 2022, and we discussed with State officials how the State agency monitors its facilities.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

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<sup>1</sup> O.C.G.A. 49-6-82 "Definitions," sections 3 and 6.

<sup>2</sup> The State agency licenses providers and periodically inspects facilities (O.C.G.A. 49-6-83 "License required; nontransferable," O.C.G.A. 49-6-85 "Periodic inspection by department; exemptions," and Georgia's HCB waiver application, Appendix C-1/C-3: "Provider Specifications for Service" and Appendix C-2: "General Service Specifications").

<sup>3</sup> In its waiver, the State agency assures that necessary safeguards have been taken to protect the health and welfare of persons receiving services under the waiver. These safeguards include adequate standards for all types of providers that provide services under the waiver.

<sup>4</sup> O.G.C.A. 49-6-82, section 3 and Georgia's HCB waiver application, section 5(A) and (H).

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology. Appendix C contains Federal regulations and specific State requirements related to health and safety and administration.

## **FINDINGS**

The State agency did not fully comply with Federal waiver and State requirements in overseeing providers that serve vulnerable adults receiving ADHC services through the program. Of the 20 providers that we reviewed, 19 did not comply with 1 or more health and safety requirements, and 18 did not comply with 1 or more administrative requirements.<sup>5</sup> We found 312 instances of provider noncompliance with health, safety, and administrative requirements. Providers did not always meet the needs of program participants or maintain compliance with State requirements, and the State agency's inspections of facilities were insufficient to ensure a continuously safe and nonhazardous environment. As a result, vulnerable adults were at risk in numerous instances. (See Appendix D.)

### **NINETEEN PROVIDERS DID NOT COMPLY WITH ONE OR MORE HEALTH AND SAFETY REQUIREMENTS**

The State agency must inspect providers to ensure compliance with applicable State requirements, including those regarding health and safety.<sup>6</sup> Providers must meet the health care needs of program participants by, among other things, ensuring the health, safety, and welfare of participants.<sup>7</sup> For example, providers must ensure that the facility is constructed, arranged, and maintained to provide adequately for the health, safety, access, and well-being of the participants.<sup>8</sup>

Of the 20 providers we reviewed, 19 did not comply with 1 or more State health and safety requirements. Specifically, we found 126 instances of provider noncompliance with State health and safety requirements.

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<sup>5</sup> Seventeen providers did not comply with both health and safety and administrative requirements.

<sup>6</sup> Rules of DCH Chapter 111-8-1-.26, "Inspections by Department Staff," section 2.

<sup>7</sup> Rules of DCH Chapter 111-8-1-.02, "Title and Purposes."

<sup>8</sup> Rules of DCH Chapter 111-8-1-.10, "Physical Plant Health and Safety Standards," section (1).



Among other things, we found insufficient maintenance in eight facilities (Photograph 1). We also found clutter and extraneous materials in five facilities (Photograph 2), water damage in five facilities (Photograph 3), unclean conditions in five facilities (Photograph 4), exposed electrical wiring in five facilities (Photograph 5), and toxic chemicals in unlocked areas that were accessible to participants in four facilities (Photograph 6).



**Photograph 1: Insufficient Building Maintenance.**



**Photograph 2: Clutter.**



**Photograph 3: Water Damage.**



**Photograph 4: Unclean Conditions.**



**Photograph 5: Exposed Wiring.**



**Photograph 6: Hazardous Chemicals.**

## **EIGHTEEN PROVIDERS DID NOT COMPLY WITH ONE OR MORE ADMINISTRATIVE REQUIREMENTS**

The State agency must inspect providers to ensure compliance with applicable State requirements, including those regarding administration.<sup>9</sup> Providers must meet the needs of the participants by having enough appropriately qualified staff.<sup>10</sup> For example, prior to employment, a provider must ensure that all employees are subjected to a criminal background check (or professional license verification) and a tuberculin skin test (or chest x-ray).<sup>11</sup>

Of the 20 providers we reviewed, 18 did not comply with 1 or more State administrative requirements. We found 186 instances of provider noncompliance with State administrative requirements.

Among other things, we found that 10 providers had not conducted criminal background checks or nurse aide registry checks on staff prior to employment.<sup>12</sup> Additionally, nine providers did not ensure staff and/or participants were free of active tuberculosis based upon the results of

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<sup>9</sup> Rules of DCH Chapter 111-8-1-.26, "Inspections by Department Staff," section 2.

<sup>10</sup> Rules of DCH Chapter 111-8-1-.13, "Staffing," section 1(d).

<sup>11</sup> Rules of DCH Chapter 111-8-1-.14, "Personnel," section 2(e) and 5(b).

<sup>12</sup> Rules of DCH Chapter 111-8-1-.13, "Staffing," sections 1(d) and 2(a), and 111-8-1-.14, "Personnel," section 2.

negative tuberculin skin tests (or chest x-rays) prior to employment and/or admission.<sup>13</sup> We found staffing issues at four providers. For example, three providers did not have licensed medical personnel on staff and another provider was using a driver with an expired driver's license.<sup>14</sup> Also, we found training issues at 11 providers. For example, some staff did not receive the required orientation and related training within the first 90 days of employment.<sup>15</sup>

## **CAUSES OF NONCOMPLIANCE WITH FEDERAL WAIVER AND STATE REQUIREMENTS**

The State agency did not fully comply with Federal waiver and State requirements for overseeing and monitoring the health and welfare of Medicaid beneficiaries receiving ADHC services because its inspections of facilities were insufficient to ensure a continuously safe and nonhazardous environment.

Between February 5, 2019, and December 1, 2022, the State agency inspected each of the 20 providers that we reviewed. For 15 of these providers, the State agency's most recent inspection identified no compliance violations. Inspections did not identify facility maintenance issues, clutter and extraneous materials, water damage, unclean conditions, exposed electrical wiring, or toxic chemicals in unlocked areas. Additionally, inspections did not include sufficient review of staff and participant records. For example, inspections failed to identify that some providers did not perform criminal background checks, nurse aide registry checks, and tuberculin skin tests. Inspections also failed to identify that some providers did not have licensed medical personnel on staff or that one provider used a driver with an expired license.

Providers did not always meet the needs of program participants or maintain compliance with State requirements, and the State agency's oversight and monitoring did not detect these instances of noncompliance. As a result, vulnerable adults were at risk in numerous instances.

## **RECOMMENDATIONS**

We recommend that the Georgia Department of Community Health:

- ensure that providers correct the 312 instances of provider noncompliance identified in this report;
- improve its oversight and monitoring of providers; and
- work with providers to improve their facilities, staffing, and training.

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<sup>13</sup> Rules of DCH Chapter 111-8-1-.14, "Personnel," section 5(b) and Chapter 111-8-1-.15, "Admission," section (2)(b).

<sup>14</sup> Rules of DCH Chapter 111-8-1-.14, "Personnel," section 4(c).

<sup>15</sup> Rules of DCH Chapter 111-8-1-.14, "Personnel," section 3.

## **STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

### **STATE AGENCY COMMENTS**

In written comments on our draft report, the State agency concurred with our first recommendation and said that it would investigate the 20 providers reviewed and determine what enforcement actions are required. The State agency partially concurred with our second and third recommendations. For those recommendations, the State agency said that CMS approved modifications to training requirements and onboarding processes during the COVID-19 public health emergency (PHE) and that it will continue to monitor providers in compliance with regulatory oversight requirements. In addition, the State agency said that it would perform desk audits and unannounced site visits, identify findings, and take actions to remediate the findings and ensure compliance.

### **OFFICE OF INSPECTOR GENERAL RESPONSE**

We acknowledge that CMS modified some regulatory oversight requirements due to the PHE. However, those modifications did not change the Federal regulations and State requirements applicable to our findings. Therefore, after review and consideration of the State agency's comments, our findings remain unchanged.

The State agency's comments are included in their entirety as Appendix E.

## **APPENDIX A: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

Of the 102 providers in Georgia as of December 31, 2021, we selected 20 for review. We selected these providers based on their geographic location and number of participants.

To evaluate the State agency's oversight of facilities, we conducted unannounced site visits at the 20 selected facilities from July 11 through 15, 2022. We conducted fieldwork in the Georgia cities of Americus, Augusta, Columbus, Douglasville, Garden City, Harlem, Lincolnton, Lithonia, Macon, Morrow, Norcross, Savannah, and Waynesboro.

During our audit, we did not review the overall internal control structure of the State agency or the Medicaid program. Rather, we reviewed only the internal controls that pertained directly to our objective.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal laws, State statutes, and regulations for facilities;
- discussed with State officials how the State agency monitors its facilities;
- developed a health, safety, and administrative requirement checklist, from State requirements, as a guide for conducting site visits;
- conducted unannounced site visits at the 20 providers selected for review;
- evaluated provider compliance using the health, safety, and administrative requirement checklist; and
- discussed the results of our review with State officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>New York's Oversight of Medicaid Managed Care Organizations Did Not Ensure Providers Complied With Health and Safety Requirements at 18 of 20 Adult Day Care Facilities Reviewed</i>	<a href="#">A-02-18-01027</a>	3/26/2020
<i>California Needs To Improve Oversight of Community-Based Adult Services Providers' Compliance With Health and Safety and Administrative Requirements</i>	<a href="#">A-09-18-02002</a>	9/30/2019
<i>Kentucky Did Not Comply With Federal Waiver and State Requirements at 14 of 20 Adult Day Health Care Facilities Reviewed</i>	<a href="#">A-04-18-00123</a>	7/9/2019
<i>Four States Did Not Comply With Federal Waiver and State Requirements in Overseeing Adult Day Care Centers and Foster Care Homes</i>	<a href="#">A-05-19-00005</a>	5/16/2019
<i>Wisconsin Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Service Centers Reviewed</i>	<a href="#">A-05-17-00030</a>	10/15/2018
<i>Mississippi Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Care Facilities Reviewed</i>	<a href="#">A-04-17-00116</a>	8/20/2018
<i>Illinois Did Not Comply With Federal Waiver and State Requirements at 18 of 20 Adult Day Service Centers Reviewed</i>	<a href="#">A-05-17-00028</a>	7/24/2018
<i>Minnesota Did Not Comply With Federal Waiver and State Requirements for All 20 Adult Day Care Centers Reviewed</i>	<a href="#">A-05-17-00009</a>	5/30/2018
<i>Minnesota Did Not Comply With Federal Waiver and State Requirements for 18 of 20 Family Adult Foster Care Homes Reviewed</i>	<a href="#">A-05-16-00044</a>	10/31/2017

## **APPENDIX C: FEDERAL REGULATIONS AND STATE REQUIREMENTS**

### **FEDERAL REGULATIONS**

Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a State may offer HCB services to a State-specified target group of Medicaid beneficiaries who need a level of institutional care that is provided under the Medicaid State plan.

Prior to the enactment of section 1915(c), the Medicaid program provided limited coverage for long-term services and support in noninstitutional settings but offered full or partial coverage of institutional care. Section 1915(c) was enacted to enable States to address the needs of individuals who would otherwise receive costly institutional care by furnishing cost-effective services while the individuals remain in their households and communities.

Federal regulations for section 1915(c) waivers require States to provide assurance that necessary safeguards will be taken, including adequate standards for provider participation, to protect the health and welfare of individuals serviced under the waiver and to assure financial accountability for funds expended for those services.

As part of the waiver, the State agency is required to ensure the health, safety, and welfare of participants through oversight and monitoring of providers.

### **STATE REQUIREMENTS**

The State identifies provider licensure requirements for the operation of adult day centers in its Georgia Code, title 49, chapter 6, article 7, “Licensure of Adult Day Center.” Additionally, the State identifies rules for licensing, inspection, and operation of adult day centers in its Rules of DCH, chapter 111-8-1, “Rules and Regulations for Adult Day Centers.”

#### **General Statutes**

##### *Rules of DCH 111-8-1*

Section 111-8-1-.04. Definitions . . .

(1)(ee) “Registered nurse (RN)” means a person currently licensed by the Georgia Board of Nursing . . .

Section 111-8-1-.05. Application for a License.

- (1) Unless exempted . . . no person, partnership, entity, corporation, or association . . . shall operate an adult day center without first obtaining a valid license from the Department . . .

Section 111-8-1-.06. License Requirements.

- (1) . . . To be eligible for a license, the center must be in substantial compliance with the applicable rules and regulations . . .

Section 111-8-1-.08. Administration.

- (1) Prior to being granted a license, each adult day center shall develop written policies and procedures outlining the responsibilities of center staff, management and volunteers. The policies and procedures shall at a minimum include the following:
  - (a) A description of the types of services provided by the center . . .
  - (c) A description of the center's days and hours of operation; . . .
  - (g) The procedure for documenting any serious or unusual incidents occurring at the center which would affect the health, safety or welfare of participants . . .
  - (i) The procedure for implementing standard precautions;
  - (j) A policy and procedure to assure that no staff member, volunteer, visitor . . . or any other person may be on the premises of the center during the hours of operation if the person exhibits: symptoms of illness, a communicable disease transmitted by normal contact, or behavior which gives reasonable concern for the safety of the participants and others; . . .
  - (m) A description of the criteria for voluntary and involuntary discharge of a participant from the center, and the time frame for notifying the participant and/or participant's representative prior to an involuntary discharge;
  - (n) A policy for addressing and resolving complaints made by participants, the participant's representative, family or other interested person(s) within a reasonable time not to exceed seven (7) business days . . .
- (3) Each center shall maintain an organizational chart, illustrating the lines of authority and communication within the center . . .



Section 111-8-1-.09. Disaster Preparedness, Fire Safety and Emergencies.

- (1) In a format provided by the Department, each center shall complete and submit for approval a disaster preparedness plan that contains a set of procedures for responding to internal and external disasters or emergency situations.
- (2) The disaster preparedness plan shall identify the staff position responsible for implementing the plan, obtaining necessary emergency medical attention or intervention for participants, and coordinating with the local emergency management agency . . .
- (5) Each center shall forward a copy of the plan to the local emergency management agency.
- (6) Each center shall review and update its disaster preparedness plan as needed, but at a minimum on an annual basis.
- (7) Each center shall maintain the following records . . .
  - (b) Records of rehearsals of the disaster preparedness plan to include the names of all participants, staff and volunteers participating in the rehearsals . . .
- (9) . . . Adult day centers shall ensure that facilities where services are provided meet all applicable standards for fire and safety requirements . . .
  - (a) The building must be kept in good repair; electrical, heating and cooling systems must be maintained in a safe manner . . . Any extension cords in excess of six (6) feet must be shielded or protected and shall not be used in lieu of permanent wiring . . .
  - (c) Fire drills shall be conducted at least quarterly and all staff and participants shall participate in the drills . . . Documentation of the fire drills shall be maintained by the center and shall include the date and time of such drills, the staff and participants included in the drill, and the actual evacuation time.
  - (d) Storage items must be arranged to minimize fire hazard. Gasoline, volatile materials, paint, and similar products must not be stored in the building housing participants unless approved in writing by the local fire marshal . . .
  - (h) The use of unvented heaters, open flame heaters or portable space heaters is prohibited . . .
- (10) . . . Emergency procedures shall include at least the following: . . .

(c) An easily located file for each participant containing at least the following:

1. Name and telephone number of the participant's physician;
2. Hospital preference; . . .
8. Photograph (for participant identification) . . .

Section 111-8-1-.10. Physical Plant Health and Safety Standards.

(1) . . . The adult day center shall be constructed, arranged, and maintained so as to provide adequately for the health, safety, access, and well-being of the participants.

- (a) Each center shall have a standard telephone . . . . A list of emergency telephone numbers for fire, ambulance, police, poison control and 911 shall be posted at each telephone.
- (b) Each center shall provide adequate, safe and sanitary facilities appropriate for the services provided by the center and for the needs of the participants. All centers shall be accessible to and usable by physically disabled individuals and shall meet all applicable regulations for access for the handicapped . . .
- (d) Each center shall provide adequate lighting for participant activities and safety . . .

(2) . . . Center facilities shall consist of . . . the following:

- (d) Rest area(s) as needed by the participants . . .

(3) . . . Each center shall provide sufficient furniture for use by participants, which provide comfort and safety, and are appropriate for an adult population with physical limitations, visual and mobility limitations and cognitive impairments. Furnishings shall be maintained in good condition, intact, and functional.

- (a) Each center shall provide clean, comfortable seating with support meeting the needs for each participant . . .

(4) . . . There shall be adequate bathroom facilities to meet the needs of participants . . .

- (b) Bathrooms and fixtures shall be accessible to participants with disabilities, function properly, and be maintained in a sanitary and odor free condition; . . .

- (e) Doors to all bathrooms must be equipped with closure devices which can be opened from the outside, in case a participant experiences difficulty and needs staff assistance.

(5) Bathing Facilities . . .

- (c) Tubs and/or showers for participant use must have non-slip bottoms or floor surfaces, either installed or applied to the surface.

(6) . . . The building shall be clean and in good repair, free from litter, extraneous materials, unsightly or injurious accumulations of items and free from pests and vermin.

- (a) Waste, trash and garbage shall be removed from the premises at regular intervals. Excessive accumulations are not permitted.

- (b) Floors, walls and ceilings must be structurally sound, maintained, cleaned, repaired and/or painted when needed.

- (c) All outside refuse containers shall have tight fitting lids left in closed position . . .

(8) . . . Adult day centers that provide outdoor activities shall have a safe, secure, and suitable outdoor recreation or relaxation area that includes a shaded area for participants that is designed to meet the needs of participants . . .

- (b) The outdoor area shall be suitably furnished with seating appropriate to the needs of the participants . . .

Section 111-8-1-.11. Supplies . . .

(2) Each center shall stock and maintain in a single location first aid supplies to treat minor burns, cuts, abrasions, and accidental poisonings. Staff shall assure that supplies with expiration dates are replaced in a timely manner to avoid expiration. The first aid supplies shall include the following: . . .

- (c) Antiseptic and antibiotic solutions; and

- (d) Syrup of ipecac (to be used only if so instructed by the Georgia Poison Control Center).

(3) . . . In addition to the above, adult day health care centers shall maintain the equipment and supplies listed below in a safe, clean and usable condition: . . .

(e) Tub-shower chair/bench;

(f) Wheelchair; . . .

Section 111-8-1-.12. Services . . .

(2) . . . Core services provided by all centers shall include at a minimum the following:

(a) Supervision commensurate with the needs of the participants; . . .

(4) . . . [C]enters that provide adult day health services shall provide . . . the following:

(a) Nursing services;

(b) Health monitoring; . . .

(5) . . . The services provided by the center shall be in accordance with the participant's individual plan of care.

(a) The individual plan of care shall be completed by the Director or his/her designee, implemented within three business days of admission, and shall include the following:

1. Signature of the participant or representative as evidence of their involvement;

2. A review of the participant's functional abilities and disabilities, personal habits, likes and dislikes, medical condition and any other information helpful to developing the plan;

3. A statement of the activities and services the center will provide in order to meet the participant's needs and preferences;

4. The expected outcomes and the frequency of reevaluation of the plan;

5. The participant's usual travel arrangements to and from the site, the usual time for arriving and leaving, and any plan for using transportation services; . . .

(b) The plan shall be reviewed and updated at least bi-annually or more often as warranted by changes in the participant's functioning, health condition, preferences or services. Changes shall be documented in the participant's record; and

- (c) For adult day health services, the center shall document at least quarterly how each participant is responding to the individual plan of care.
- (6) The center shall have a written agreement with any agency, program, or other service provider that provides essential services not provided directly by and otherwise the responsibility of the center. This written agreement shall include the nature and extent of the services provided and shall be updated annually . . .
- (7) If the center uses animals as part of the program of activities, . . . [d]ocumentation of immunizations for all animals that . . . are provided by the center shall be maintained at the center.

Section 111-8-1-.13. Staffing.

- (1) . . . Each adult day center shall have as many staff and/or volunteers on duty at all times as may be needed to properly safeguard the health, safety and welfare of the participants, as required by these regulations. At a minimum the following shall be observed: . . .
  - (b) Each center shall have at least one staff member who has current certification in first aid and cardiopulmonary resuscitation (“CPR”) shall be in the center at all times . . .
  - (d) Each center shall provide appropriately qualified staff and/or volunteers in sufficient number to meet the needs of the participants . . . . At a minimum, adult day centers shall provide a staff and/or volunteer to participant ratio of no less than 1:8. The staffing ratio refers to the staff providing direct services to participants and therefore excludes such employees as clerical or office workers and maintenance or food service staff.
  - (e) Each center shall maintain a monthly work schedule showing that the center has planned for adequate coverage and shall document actual coverage by date, name, and hours worked.
  - (f) Each center shall ensure sufficient staffing to promptly and safely evacuate all participants in the event of an emergency . . .
- (2) . . . In addition to the requirements above, adult day health centers shall provide the following staffing:
  - (a) A registered nurse (RN) who shall assess participant’s physical and mental health needs. The RN is responsible for the development and supervision

of the participant's individual plan of care within three business days of admission.

If the center employs the services of a licensed practical nurse (LPN), the center shall ensure that the LPN is supervised by an RN . . .

Section 111-8-1-.14. Personnel . . .

- (2) Prior to hiring, the center shall search the Georgia Nurse Aide Registry to determine if an individual is designated in the registry as having abused, neglected or exploited a resident or consumer of a facility . . .
  - (b) If the individual represents that they are certified or licensed, there shall be evidence in the file of the individual having a current license or certification that is not restricted.
  - (c) Each center shall search the Georgia Board of Nursing website to determine if a prospective nursing employee has been cited for disciplinary actions . . .
  - (e) For all staff and volunteer positions, employment and criminal background checks shall be conducted prior to employment . . .
- (3) . . . The Director shall be responsible for ensuring that any person working in the center as an employee . . . receives work-related training . . . within the first ninety (90) days of employment . . .
  - (a) Work-related training for employees shall at a minimum include the following: . . .
    - (2) Evidence of current certification in cardiopulmonary resuscitation where the training course required return demonstration of competency;
    - (3) Training in standard precautions, infection control and latex safety;
    - (4) Training in identifying participants who may be victims of elder abuse or self-neglect;
    - (5) Training in participant's rights including the prevention and reporting of suspected abuse, neglect or exploitation;
    - (6) Training in protecting the confidentiality of participant information and records;

- (7) Training on the nature of influenza and the role of vaccination in controlling its spread to those persons having direct participant contact;
  - (8) Training in diversity and cultural sensitivity;
  - (9) Training on Alzheimer's disease and other dementias including communicating and responding to behaviors; . . .
- (4) . . . Each center shall maintain personnel records for each employee and volunteer who provides direct care to participants. Each employee shall have access to his/her personnel record. Individual personnel records on all staff members shall contain at least the following:
- (a) A complete application for employment . . .
  - (e) Evidence of having conducted background screenings as required by these rules in regards to the staff member or volunteer.
- (5) . . . All staff and volunteers who provide direct care to participants shall have received a report of physical examination by an authorized healthcare professional within twelve months prior to employment, sufficiently comprehensive to include at least the following:
- (a) Documentation that the employee/volunteer is free of signs and symptoms of communicable diseases; and
  - (b) Evidence that all staff/volunteers are free of active tuberculosis based upon the results of a negative tuberculin skin test or chest x-ray within twelve months prior to employment . . .

Section 111-8-1-.15. Admission . . .

- (2) Prior to the provision of services, the Director or his/her designee . . . shall obtain the following: . . .
  - (b) Evidence that the participant is free of active tuberculosis based upon the results of a negative tuberculin skin test or chest x-ray within 12 months prior to admission;
  - (c) A signed participant agreement; . . .
- (5) . . . [A]dult day health centers shall obtain documentation of the following:

- (a) A medical examination report signed by a physician, nurse practitioner or physician assistant, completed within six months prior to admission that includes recommendations for care, diet, and medical, nursing, health or supportive services which may be needed; and
  - (b) Physician's orders for any therapies, when applicable.
- (6) At admission the center shall ensure that the participant and representative receive a copy of the following:
  - (a) The center's pertinent policies and procedures required to be provided in the participant agreement; and
  - (b) Participant's rights information.
- (7) . . . Upon admission to the center, staff shall complete and the participant or their representative shall sign a written agreement. The agreement shall include the following: . . .
  - (b) Specific services to be provided to the participant by the center; . . .

Section 111-8-1-.16. Records.

- (1) . . . An individual file for each participant shall be established and maintained at the adult day center and shall include the following:
  - (a) The participant's full name, address, telephone number, date of birth, marital status, and living arrangement;
  - (b) At least two emergency contacts to include name, address, telephone number, and relationship to participant;
  - (c) Name, address and telephone number of the participant's primary health care provider;
  - (d) A signed participant agreement; . . .
  - (f) All individual plans of care including updates; . . .
  - (h) Signed authorization for the participant to receive emergency medical care from any licensed medical practitioner, if such emergency care is needed by the participant;



- (i) A medical examination report conducted within six months prior to admission or within thirty (30) days after admission, and updated annually, signed by a licensed physician, physician's assistant or nurse practitioner;
  - (j) A statement signed by the participant or representative acknowledging receipt of center policies;
  - (k) An activity participation record for each participant;
  - (l) Medication Assistance Records; and
  - (m) A record of incidents, accidents, injuries, illnesses and emergencies involving the participant.
- (2) . . . In addition to the above, adult day health centers shall maintain the following records;
- (a) Progress notes including the written report of staff discussions, conferences, consultation with family or other interested parties; and
  - (b) Evaluation of a participant's progress, and any other information regarding a participant's situation . . .

#### Section 111-8-1-.19. Medications . . .

- (15) . . . The storage and disposal of bio-medical and hazardous wastes must comply with applicable federal, state and local rules and/or standards.

#### Section 111-8-1-.23. Reporting Requirements . . .

- (2) On forms provided by the Department, no later than the next business day, the adult day center shall report whenever any of the following serious or unusual incidents involving a participant occurs or center has reasonable cause to believe that an incident involving a participant has occurred at the center or off-site during the provision of services:
- (a) Any death of a participant;
  - (b) Any rape of a participant;
  - (c) Any serious injury to a participant that requires medical attention;
  - (d) Any suspected abuse, neglect or exploitation of a participant; and

(e) Any time a participant cannot be located and the participant has been missing for more than thirty (30) minutes . . .

Section 111-8-1-.25. Infection Control.

(1) Each adult day center shall develop and implement policies and procedures that address infection control issues in all components of the adult day center . . . and shall address at least the following:

(a) Hand hygiene;

(b) Cleaning, disinfecting, and sanitizing participant areas;

(c) Isolation precautions;

(d) Handling, transport, and disposal of medical waste or bodily fluids;

(e) Center requirements for communicable disease health screening, including tuberculosis surveillance and any recommended immunizations; . . .

(g) Work restrictions for staff with potentially infectious diseases; . . .

(l) Standard precautions . . .

#### APPENDIX D: INSTANCES OF NONCOMPLIANCE AT EACH FACILITY

	Health and Safety		Administrative			
Provider	Physical Environment	Participant Welfare	Staffing and Policies	Personnel Records	Participant Records	Total
1	7	8	7	4	4	30
2	0	4	2	2	5	13
3	0	4	1	0	0	5
4	3	6	5	9	7	30
5	1	6	6	17	11	41
6	0	1	2	3	0	6
7	1	0	1	1	0	3
8	1	2	3	0	3	9
9	0	3	1	2	0	6
10	0	5	1	0	4	10
11	0	0	0	1	0	1
12	0	2	0	0	0	2
13	6	5	0	1	0	12
14	1	4	0	2	0	7
15	0	2	0	0	0	2
16	9	9	9	10	6	43
17	8	3	2	3	4	20
18	2	2	6	5	4	19
19	4	6	1	7	3	21
20	4	7	3	6	12	32
<b>Total</b>	<b>47</b>	<b>79</b>	<b>50</b>	<b>73</b>	<b>63</b>	<b>312</b>

**Notice:** We provided to the State agency under a separate cover the specific facilities reviewed and their specific violations.

## APPENDIX E: STATE AGENCY COMMENTS



GEORGIA DEPARTMENT  
OF COMMUNITY HEALTH

Brian P. Kemp, Governor

Caylee Noggle, Commissioner

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2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | [www.dch.georgia.gov](http://www.dch.georgia.gov)

January 31, 2023

Ms. Lori S. Pilcher  
Regional Inspector General for Audit Services  
Office of the Inspector General  
Office of Audit Services, Region IV  
61 Forsyth Street, SW, Suite 3T41  
Atlanta, GA 30303

Re: Report Number **A-04-22-00134**

Ms. Pilcher:

The Department of Community Health (DCH) has reviewed the draft report titled **Georgia Did Not Comply with Federal Waiver and State Requirements at All 20 Adult Day Health Care Facilities Reviewed**. Georgia works hard to assure that Adult Day Health Care (ADHC) services are provided in a safe and homelike environment and that care provided to participants is based on their individual needs. We take the findings of this audit seriously and will work to ensure corrections are made and compliance is maintained. We would note that we do not believe the number of violations found is representative of all of Georgia's Adult Day Health Care centers.

**Attachment A** outlines the actions DCH will take to resolve each finding. DCH appreciates the work performed by HHS OIG and the opportunity to respond to the draft audit report.

If you have any questions, please contact Inspector General Sonja Allen-Smith at [sonja.allen-smith@dch.ga.gov](mailto:sonja.allen-smith@dch.ga.gov) or (404) 275-1954.

Sincerely,

A handwritten signature in blue ink that reads "Caylee Noggle".

Caylee Noggle  
Commissioner

CC: Marial Ellis, Chief of Staff  
Joseph Hood, Chief Operating Officer  
Benjamin Arbise, Executive Director, Healthcare Facilities Regulation Division  
Lynnette Rhodes, Executive Director, Medical Assistance Plans

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Healthcare Facility Regulation | Medical Assistance Plans | State Health Benefit Plan | Health Planning

Equal Opportunity Employer



## ATTACHMENT A

### **OIG Recommendation No. 1:**

Ensure that providers correct the 312 instances of provider noncompliance identified in this report.

#### **DCH Response to Recommendation No. 1:**

The Department concurs with this recommendation. The Department's Healthcare Facilities Regulation Division (HFRD) has opened investigations for the 20 ADHCs. These investigations will be on-site, unannounced, and once complete, will determine what enforcement actions are required. Enforcement actions may result in a citation, a plan of correction (POC) or termination (depending on the severity of the instance of non-compliance).

### **OIG Recommendation No. 2:**

Improve its oversight and monitoring of providers.

#### **DCH Response to Recommendation No. 2:**

The Department partially concurs with this recommendation. These providers were visited by HHS during the height of the public health emergency (PHE). Since March 2020, the Centers for Medicare and Medicaid Services (CMS) has approved Georgia's ADHCs to operate hybrid models of service (utilizing telehealth). HFRD will continue to monitor these providers per regulatory oversight requirements.

HFRD conducts licensure surveys for ADHCs every 12-18 months; however, for these 20 providers, once the investigations have been completed, HFRD will conduct conference calls with these providers to increase oversight and monitoring around these issues. Also, for additional monitoring and oversight, and depending on the severity of the instance of non-compliance, HFRD will implement bi-monthly/monthly questionnaires for these providers for the state's review. HFRD will also inform the state's Community Care Services Program and the State's Ombudsman of these issues to assist in the monitoring of these providers.

### **Recommendation No. 3:**

Work with providers to improve their facilities, staffing, and training.

#### **DCH Response to Recommendation No. 3:**

The Department partially concurs with this recommendation. CMS approved Georgia to operate its ADHCs under certain approved allowances until the PHE ends. This includes modifying the requirements to onboard new providers and to secure new staff. Training requirements and onboarding processes were also modified to give ADHCs the opportunity to immediately get staff into the provider network to render services.



DCH will work with providers to improve their facilities through provider reviews. There are two opportunities for provider reviews: (1) HFRD investigating complaints to ensure that providers are in compliance with all rules and regulations and (2) the Home and Community Based Waiver Team will be performing reviews of ADHCs as a part of the Statewide Transition Plan. This will include both desk audits and unannounced on-site visits. Any findings from this team will result in: (A) identifying and requiring additional training/remediation, (B) a secondary review within 30-90 days, if needed, (C) if still non-compliant, pre-payment review, and (D) if the provider remained non-compliant, issuance of sanctions against the provider which could include termination as a provider.